

JUL 28 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

CARLOS ALBERTO MENDOZA;
VIDALINA ARANA-CABRERA,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

Nos. 04-76478

04-76481

Agency Nos. A75-509-316*

A72-442-809

MEMORANDUM**

On Petition for Review of Orders of the
Board of Immigration Appeals

Submitted July 24, 2006***

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

* The Clerk is directed to correct the docket to reflect the correct agency number of petitioner Carlos Alberto Mendoza.

** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Carlos Alberto Mendoza and Vidalina Arana-Cabrera, husband and wife and natives and citizens of Guatemala, petition for review of the Board of Immigration Appeals' ("BIA") orders dismissing their appeal from an immigration judge's ("IJ") decision denying their applications for cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

To the extent petitioners contend they were denied due process because the IJ's decision was improperly influenced by their illegal entry into the United States, the contention is not supported by the record and does not amount to a colorable constitutional claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005).

To the extent petitioners contend they were denied due process because the IJ failed to continue the hearing so that petitioners' pastor could appear and testify, the contention is not a colorable constitutional claim, given that no continuance was requested. *See id.*

We lack jurisdiction to review petitioners' contention that the IJ erred in not admitting into evidence unidentified medical reports concerning one of their sons because they failed to raise the issue before the BIA. *See Barron v. Ashcroft*, 358

F.3d 674, 678 (9th Cir. 2004) (noting that due process challenges that are “procedural in nature” must be exhausted).

We reject petitioners’ contention that the BIA’s hardship precedents are inapposite because those cases did not involve intact families.

In No. 04-76478, PETITION FOR REVIEW DISMISSED in part; DENIED in part.

In No. 04-76481, PETITION FOR REVIEW DISMISSED in part; DENIED in part.